

IN THE CIRCUIT COURT OF BAXTER COUNTY, ARKANSAS

3<sup>rd</sup> Division

STATE OF ARKANSAS

Plaintiff

v.

Case No. 03CR-24-356

JACLYN BARNETT

Defendant

**DEFENDANT'S RESPONSE TO PLAINTIFF'S MOTION FOR CHILD VICTIM TO  
TESTIFY OUT OF DIRECT EYESIGHT OF THE DEFENDANT**

Comes now the above-named Defendant, by and through attorney, James E. Hensley, Jr., and for his Response to Plaintiff's *Motion for Child Victim to Testify Out of Direct Eyesight of the Defendant*, and states:

1. Defendant takes issue with calling the child a "victim." The Defendant is presumed innocent of all charges until proved otherwise. Such claim by the Prosecutor is offensive and denotes an attitude of entitlement. See, ARK. CODE ANN. § 5-1-111 (2024).

See also, the *Arkansas Rule 3.8. Special Responsibilities of a Prosecutor* COMMENT [1]: "A prosecutor has the responsibility of a minister of justice and not simply that of an advocate. This responsibility carries with it specific obligations to see that the defendant is accorded procedural justice and that guilt is decided upon the basis of sufficient evidence. Precisely how far the prosecutor is required to go in this direction is a matter of debate and varies in different jurisdictions. Many jurisdictions have adopted the ABA Standards of Criminal Justice Relating to the Prosecution Function, which in turn are the product of prolonged and careful deliberation by lawyers experienced in both criminal prosecution and defense. Applicable law may require other measures by the prosecutor and knowing disregard of those obligations or a systematic

abuse of prosecutorial discretion could constitute a violation of Rule 8.4. See, *State v. Nomura*, 903 P.2d 718, 722 (Haw. App. 1995); and *Talkington v. State*, 682 S.W.2d 674 (Tex. App.—Eastland 1984).

2. The Defendant is entitled to confront his accuser. In *Henry Jackson Smith v. State of Arkansas*, Cr99-913, \_\_\_ S.W.3d \_\_\_ (Ark. 2000, at HN 1 and HN 2, the Arkansas Supreme Court held that:

**1. Constitutional law -- Confrontation Clause -- rights provided.** -- The Confrontation Clauses in the Sixth Amendment to the United States Constitution and Article 2, section 10, of the Arkansas Constitution both guarantee the right of an accused in a criminal prosecution to be confronted with the witnesses against him; the right of confrontation provides two types of protection for a criminal defendant; the right physically to face those who testify against him and the opportunity to conduct effective cross-examination.

**2. Constitutional law -- Confrontation Clause -- right to face-to-face meeting with witnesses.** -- The Confrontation Clause does not guarantee criminal defendants an absolute right to a face-to-face meeting with witnesses against them at trial; the right to confront accusatory witnesses may be satisfied absent a physical, face-to-face confrontation at trial only where two factors are applicable; the trial court makes a case-specific finding that the denial of such confrontation is necessary to further an important public policy, such as protecting a child witness from trauma, and only where the reliability of the testimony is otherwise assured.

3. Allowing the child a sterile environment will bolster the witness' position, which limits the defense's ability to fully enjoy the provisions of his/her constitutional rights. There has been no provision or testimony by any physician of any such reason for such violation save that of the prosecutor claiming the child is "socially awkward and developmentally delayed which

the State attributes to the actions of the defendants over the last ten years.” The prosecutor makes this self-serving claim without any medical proof or history.

4. The Prosecutor claims their motion is “in the best interests of the minor witness, the alleged nature of the defendant, the confined space of the Baxter County Courtroom, and the security issues these concerns present. . .” Such claim is again self-serving, diminishes the Constitutional protections afforded the Defendant, invites ridicule of law enforcement of Baxter County, and directly impugns the character of the Defendant without any provocation.

5. The Defendant has yet to be convicted of any crime, the Prosecutor continually violates the Arkansas Rules of Professional Conduct, Rule 3.8, and is trying to gain a superior position in this case since there appears to be no violation of law by the Defendants according to the Arkansas Department of Human Services, the public school system, law enforcement, or any medical provider. Such behavior should be denied.

WHEREFORE, the Defense requests the Court deny the Prosecutor’s Motion and allow the Defendant full Constitutional rights and for all other proper relief.

Respectfully Submitted,

/s/ James E. Hensley, Jr. 99069  
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## CERTIFICATE OF SERVICE

I, James E. Hensley, Jr., certify that the foregoing pleading has been served upon the Plaintiff on this 27<sup>th</sup> day of October 2025 via electronic filing.

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